

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

UNITED STATES OF AMERICA

PLAINTIFF

V.

CIVIL ACTION NO.: 3:16-CV-00622-CWR-FKB

THE STATE OF MISSISSIPPI

DEFENDANT

**THE STATE OF MISSISSIPPI'S MOTION FOR
SUMMARY JUDGMENT FOR LACK OF STANDING**

The State of Mississippi (State or Mississippi) is entitled to summary judgment under FRCP 56 as follows:

1. Plaintiff filed suit alleging violations of Title II of the Americans With Disabilities Act, as amended, 42 U.S.C. § 12131 *et seq.* (ADA).

2. Plaintiff erroneously contends the State has violated Title II of the ADA because it is allegedly institutionalizing individuals who should be receiving community-based mental health services.

3. But Plaintiff lacks standing to bring this action under Title II of the ADA, and so this case should be dismissed.

4. Alternatively, if the Court declines summary judgment, the Court should stay the proceedings in this case pending the outcome of the Eleventh Circuit's decision in *A.R., et al. v. Sec. Health Care Admin., et al.*, No. 17-13595. The Eleventh Circuit case involves essentially the same standing issue presented in the State's motion here.

5. The State's Motion is based on its supporting Memorandum.

Relief Requested

For these reasons, the Mississippi's Motion for Summary Judgment For Lack of Standing should be granted. In the alternative, the State requests a stay of proceedings until the Eleventh Circuit has rendered its opinion in *A.R., et al. v. Sec. Health Care Admin., et al.*, No. 17-13595.

This, the 21st day of December, 2018.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on December 21, 2018, I electronically filed this document with the Clerk of the Court using the ECF system, which sent notification of such filing to all ECF counsel of record in this action.

/s/ Nash E. Gilmore
NASH E. GILMORE